IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2157 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MAHMEDZUBERBHAI MUSABHAI PATEL

Appearance:

1. Special Civil Application No. 2157 of 2003

MR HARDIK C RAWAL for Petitioner No. 1

MRS MADHUBEN SHARMA for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/07/2003

ORAL JUDGEMENT

#. By filing this petition, the petitioner Corporation has challenged the award passed by the Labour Court,

Kachchh-Bhuj dated 17/10/2002 in Reference (LCG) No.939 of 1996. By the impugned award, the Labour Court has allowed the reference of the respondent workman and set aside the order of removal passed by the Corporation. The Labour Court has also passed the order of reinstatement without back wages, but with continuity of service. The Labour Court, while interfering with the punishment order passed by the Corporation, imposed the penalty of withholding of two annual increments with permanent effect.

#. The concerned workman was dismissed from service after holding a departmental inquiry. The charge against the concerned workman was that he has instigated certain employees to resort to strike, etc., and he had acted in a high-handed manner. On conclusion of the inquiry, he was removed from service.

#. The Labour Court, while exercising the powers under Section 11-A of the Industrial Disputes Act, passed the order of reinstatement without back wages and also modified the penalty by inflicting the penalty of withholding of two yearly increments with future effect.

#. Mr.Rawal, learned advocate, who is appearing for the Corporation, has stated that, during the pendency of this petition, concerned workman has sent a proposal for settling the dispute. He submitted that the Corporation has agreed to accept the said proposal and has also agreed for inflicting the penalty of withholding of four increments with permanent effect. On the basis of the same, a letter was written to their advocate. The said letter as well as the representation of the concerned workman are taken on record. In that view of the matter and with the consent of the parties, the following order is passed.:-

The award of the Labour Court dated 17/10/2002 passed in Reference (LCG) No.939 of 1996 is modified to the extent that the order of reinstatement is confirmed. However, the concerned workman will be subjected to the penalty of withholding of four increments with future effect. Rest of the order of the Labour Court is confirmed. It is clarified that the concerned workman will be entitled to all other benefits in view of continuity of service, like periodical increments, etc., except back wages, which are not awarded by the Labour Court.

This petition is partly allowed. Rule is made absolute accordingly, with no order as to costs.

(P.B.Majmudar,J)

(pathan)